

MONTGOMERY COUNTY FIRE AND RESCUE SERVICE EXECUTIVE REGULATION

PROCEDURES FOR FRC APPEAL HEARINGS

Issued by: Montgomery County Fire and Rescue Commission
Executive Regulation No. 2-03

Authority: Montgomery County Code Sections 21-2.(d)(3), 21-7.(c)

Supersedes: FRC Interim Policy No. 01-06

Council Review Method (2) Under Code Section 2A-15

Register Volume 20, Issue 1

Effective Date:

SUMMARY: The Fire and Rescue Commission is adopting by regulation these Procedures for Appeal Hearings ("Procedures") to govern hearings of appeals, in accordance with Section 21-7 of the Montgomery County Code, 1994, as amended.

DEADLINES: Montgomery County Register Comment: January 31, 2003
Montgomery County Fire Board Comment: January 31, 2003
Div. of Fire and Rescue Services Comment: January 31, 2003
Div. of Vol. Fire and Rescue Services Comment: Jan. 31, 2003
Local Fire and Rescue Depts. Comment: January 31, 2003

ADDRESS: Please send all comments pertaining to the proposed regulation to Beth Feldman, Montgomery County Fire and Rescue Service, 12th Floor, 101 Monroe Street, Rockville, MD 20850. Comments may also be e-mailed to beth.feldman@co.mo.md.us

STAFF: For additional information, please call Beth Feldman, Montgomery County Fire and Rescue Service, on (240) 777-2423.

BACKGROUND: These Procedures for FRC Appeal Hearings customize the language of the Administrative Procedures Act ("APA") to specifically correspond to procedures for Fire and Rescue Commission hearings. These Procedures are intended to have the force of law inherent in Chapter 2A of the Montgomery County Code, 1994, as amended.

Sec. 1. **Purpose.** These Procedures are designed to provide prompt and efficient resolution of appeals over which the Commission has jurisdiction under Section 21-7 of the County Code.

Sec. 2. **Applicability.** These Procedures apply to an appeal by a local fire and rescue department concerning any action of the Fire Administrator in carrying out a County law or regulation or Commission policy, or any employee of the Fire and Rescue Service, or a local fire and rescue department volunteer firefighter or rescuer, or other aggrieved person, concerning any adverse action of the Administrator or a local fire and rescue department in carrying out a County law or regulation, Commission policy, or order of the Administrator. However, the Commission must not hear an appeal under these Procedures if the appellant has the right to appeal the action through an employee grievance process, or to the Merit System Protection Board under any other law, regulation, or collective bargaining agreement.

Sec. 3. **Definitions.**

- a. **Appeal.** A proceeding brought before the Fire and Rescue Commission under Section 21-7 of the County Code.
- b. **Charging Document.** A written appeal from any alleged violation or action by a Local Fire and Rescue Department, or by the Fire Administrator, over which the Commission has jurisdiction under Sec. 21-7 of the County Code. Unless otherwise ordered by the Hearing Authority, the charging document must be limited to 10 pages, excluding supporting documentation. Ten copies of the charging document must be provided to the Commission at the time the charging document is submitted. The charging document must be titled "Appeal from the Action of (the Fire Administrator or name of LFRD) that Occurred on or Was Taken on (date)." Only the Charging party, Responding party, or an aggrieved party with standing may participate in the appeal.
- c. **Charging Party.** Any person with standing who properly files a charging document with the Fire and Rescue Commission seeking administrative relief, under Section 21-7(a) of the Montgomery County Code.
- d. **Ex parte.** A judicial proceeding, order, injunction, etc., is ex parte when it is taken or granted at the instance and for the benefit of one party only, and without notice to, or contestation by, any person adversely affected.

- e. **Fire and Rescue Commission (“Commission,” “FRC”)**. Seven voting members appointed by the County Executive and confirmed by the County Council. The Fire Administrator serves as the chair of the Fire and Rescue Commission *ex officio*, but has no vote. For the purposes of this regulation, the Fire and Rescue Commission is the Hearing Authority, and it designates a hearing examiner to conduct a hearing to determine facts.
- f. **Hearing**. A quasi-judicial proceeding on a motion or on the merits of an appeal by the Commission, or by a hearing examiner designated by the Commission.
- g. **Hearing Authority**. The Fire and Rescue Commission (“Commission”), when hearing a matter on a motion or on its merits, including a hearing examiner designated by the Commission to conduct a hearing to determine facts.
- h. **Local Fire and Rescue Department (LFRD)**. The Montgomery County Fire and Rescue Service component that provides direct fire suppression, rescue, and emergency medical services, in conjunction with the Division of Fire and Rescue Services.
- i. **Presiding Officer**. The Chair or Vice-Chair of the Fire and Rescue Commission, or another public member of the Commission appointed by the Vice-Chair as temporary chair, who must conduct any hearing involving the appeal, and may issue subpoenas and permit depositions.
- j. **Responding Party**. Per Montgomery County Code Section 21-7, the Fire Administrator and/or an LFRD, as applicable, who must respond to a charging document or otherwise substantiate their actions or activities before a Hearing Authority.
- k. **Standing**. A legally protectible and tangible interest at stake in an appeal before the Hearing Authority. A person must have standing to participate as a party to an appeal under these Procedures.

Sec. 4. **Policy**. It is the policy of the Fire and Rescue Commission to ensure that this regulation meets the requirements of Chapter 21-7 of the County Code for “Appeals to and from the Commission.” The Fire and Rescue Commission has jurisdiction in, and must decide, each appeal filed by a party with standing. These Procedures for FRC

Appeal Hearings modify certain language of the Montgomery County Administrative Procedures Act (“APA”) to specifically correspond to procedures for Fire and Rescue

Commission **hearings**. These procedures are intended to have the force of law inherent in Chapter 2A of the Montgomery County Code, 1994, as amended.

Sec. 5. **Procedure.**

I. Initiation of **Hearing** Process.

- a. Any proceeding governed by this Procedure must be initiated by a person, including an individual or entity, having **standing** to bring the **appeal**, by filing a **charging document** in writing with the Fire and Rescue Commission. The **charging party** must serve the **charging document** on the **responding party** by certified mail, return receipt requested, or by personal service. Thereafter, all parties must serve on all parties of record a copy of any other document or paper by regular, first class, postage pre-paid mail.
 1. The **charging document** must be filed within the applicable 30 day filing time period stated in Section 21-7(b) of the Montgomery County Code.
 2. This **charging document** must include a description of the nature and specifics of the decision or action from which the **appeal** is being taken, together with reference to sections of applicable laws, regulations, or policies, if known, that are alleged to have been violated or relied upon.
 3. The **charging document** must indicate the nature of the relief requested, the name(s) and address(es) of the **responding parties** alleged to have committed the violation, or to have undertaken the action that is the subject of the proceedings governed by these Procedures, and the date the violation or action allegedly took place or was undertaken. The statement may be accompanied by supporting documentation. If the decision or action from which an **appeal** has been taken was in writing, a copy of the decision or action must be attached to the **appeal** as an exhibit.
 4. Any issues, not specifically set forth by the **charging party** in the **charging document** shall be deemed waived.

- b. The **Commission** has authorized its Staff Director, or designee, to receive the filing of an appeal, and all other filings, under these procedures. Upon receiving

an appeal or other filing, the Staff Director must note directly on the filing, the date and time that it was received.

- c. The party filing a document is responsible for obtaining a date stamp on the original document the party is filing, to accurately indicate when the party filed the document with the **Commission**.
- d. Unless otherwise ordered by the **Hearing Authority**, a **responding party** must file a response to a **charging document** within a period not exceeding 21 calendar days after being served with a **charging document**.
 - 1. The response must include a description of the nature and specifics of any defense(s) to each allegation, together with references to sections of applicable laws, regulations, or policies, if known, that are relied upon.
 - 2. Any supporting documentation upon which the **responding party** relies must accompany the response unless the Commission orders otherwise.
 - 3. Unless otherwise ordered by the **Hearing Authority**, the response shall be limited to 10 pages, excluding supporting documentation. Ten copies of the response must be provided to the **Commission** at the time it is submitted.
- e. Unless the **Commission** orders an evidentiary **hearing** because it has determined that it must receive testimony or other additional evidence to resolve a matter on its merits, all **appeals** to the **Commission** shall be based on the record. The record shall consist of the **charging document**, a response by the **responding party**, if any, and/or properly filed documents and testimony in accordance with these procedures or orders or directives of the **Commission** during the pendency of the **appeal**.
- f. In accordance with paragraph e. above, the **Commission** may, in its sole discretion, permit the introduction of relevant testimony, documents, and other evidence, upon determining an evidentiary hearing is needed to resolve the matter.

- g. When the **Hearing Authority** is not in session, its **presiding officer** may rule on a motion to continue, to extend time, or to increase the number of pages permitted in a **charging document**, or in a **responding party's** response.

- h. Unless the **Hearing Authority** otherwise orders, an **appeals hearing** on the merits will be held 45 days after the time the **responding party** is required to file a response.

II. Notice of **Hearing**.

- a. The **Commission** must provide reasonable notice regarding the hearing on the merits. This notice must be provided to all parties not less than thirty days before the **hearing**, except as provided below, or as otherwise ordered by the **Commission**.
- b. Notwithstanding the above, the **Commission** may schedule **hearings** on non-dispositive motions upon reasonable notice given to all parties of not less than 15 days before the **hearing**. Furthermore, the **Commission** may decide a preliminary matter or a non-dispositive motion without a **hearing**. With permission and/or agreement of all parties, or as otherwise ordered by the **Hearing Authority**, a **hearing** may be scheduled on less notice than that stated in II a. above. Such permission, agreement, or order must be in writing, or placed in the record. A motion to dismiss, or other dispositive motion, may be heard either at the **hearing** on the merits, or at a time before or after the **hearing** on the merits, as determined in the sole discretion of the **Commission**.
 - 1. The **Hearing Authority** will provide notice of **hearing** to the **charging** and **responding parties** in writing, either: by regular, first class mail; or by personal service at the address(es) indicated in the **charging document**, a response to a **charging document**; or, as otherwise determined in writing by the **Commission**.
 - 2. If the **Commission** is unable to serve a party after making diligent and reasonable efforts to locate the party, it must file an affidavit of attempt to make service in the record. If the **Commission** is satisfied with the efforts made to serve notice of a **hearing** on a party, it may proceed to hear the matter.
 - 3. The written notice must contain the following information:

- A. a copy of the **charging document**;
- B. the time, place and date of the **hearing**;
- C. that the parties may be represented by counsel, or may represent themselves;
- D. where the **Commission** determines it must conduct an evidentiary hearing to resolve factual issues in order to rule on the **appeal**, the parties may present witnesses, cross-examine witnesses, and present supporting documentation;
- E. that procedural requirements are established by these Procedures and in County Code Section 21-7;
- F. that a party may request a continuance of the **hearing** by written request, if made not less than five days before the date of the **hearing**. A request for a continuance must specify whether any or all of the parties to the matter have consented to the request;
- G. that any party may arrange for a verbatim record and transcript of the **hearing** to be made at that party's expense; and
- H. if the **Commission** determines that it must conduct an evidentiary **hearing**, then subject to applicable laws, including the provisions of the State's public information law, a party has the right to inspect and copy, at the requesting party's own expense, relevant documents of any party, administrative authority, or investigating governmental agency involved, if the inspection is not prohibited by law.

III. **Hearings.**

- a. Time and Place/Referral to **Hearing Examiner**. The **hearing** on a contested matter, including a **hearing** on the merits, will be held at the time and place designated in the notices therefor, except for continued **hearings**. These

hearings will be public, except where otherwise ordered by the **Commission**, or as provided by law. Unless the **Commission** expressly orders otherwise, all matters will be heard by the **Commission** on the basis of the written record.

The **Commission**, in its sole discretion, may hold a **hearing**, or may refer a matter to a **hearing** examiner, to take evidence and/or determine factual issues. If the **Commission** finds that a matter cannot be resolved without a determination of factual issues, the **Commission** will notify the parties and decide, in writing or on the record:

1. whether, or to what extent, it will permit the parties to present witnesses or other evidence not otherwise in the record; and
2. whether it will refer the matter to a **hearing** examiner for factual findings or recommendations.

b. Official Record

1. The **Commission** must prepare, maintain, and supervise the custody of an official record in each case. The record must include any permitted testimony, and documentary evidence, if any are submitted during the **hearing** or at other times the record is open to receive evidence and a verbatim transcript. Relevant documentary evidence may be received in the form of copies; excerpts that satisfy the **Hearing Authority** that they are accurate portions of larger documents or transcripts; photographic reproductions; or by incorporation by reference. The **Hearing Authority** must make the official record available for inspection to all parties and their counsel before any **hearing**.

A. This Section b. applies to any **ex parte** or private communication, written or oral, received by a member of the **Hearing Authority** if:

- i. the communication relates to a contested matter before the **Commission**;
- ii. all appellate rights regarding the contested matter have not been exhausted; and

- iii. the **Commission** is required by law to make a decision on the matter based on the record, or any permitted relevant testimony or documentary evidence before it.

B. This Section b. does not apply to:

- i. legal or technical advice rendered by government agency staff or an attorney for the County at the request of the **Commission**;
 - ii. any communication about the status or procedure of a pending matter; or
 - iii. any communication between members of the **Commission**, or between members of the **Commission** and any attorney for the County or **MCFRS** staff member assigned to the **Commission**. Where an **appeal** is taken from an action of the Fire Administrator, the Fire Administrator is not deemed a member of the **Commission** for purposes of this subsection.
- 2. If a member of the **Hearing Authority** receives an oral **ex parte** or private communication, that member must reduce the substance of the communication to writing within a reasonable time after receipt of the communication. A member of the **Hearing Authority** must provide any written or oral **ex parte** or private communication to the entire **Hearing Authority**.
 - 3. If a final administrative decision has not been made before receipt of the **ex parte** or private communication, the **Commission** must send a written notice to all parties that discloses the contents of the communication, and states whether the **Commission** will consider the communication as a basis for its decision under subparagraph 4, below.
 - 4. The **Commission** must include the **ex parte** or private communication in the record and may:

- A. consider the communication as a basis for its decision, after giving all parties an opportunity to respond to the communication; or
 - B. decide the matter if the **Hearing Authority** expressly finds that it has not considered the communication as a basis for its decision.
- 5. The substance of an **ex parte** or private communication received after a final administrative decision has been made, and before appellate rights have been exhausted, must be maintained in the case file. In the event of any remand, the substance of this communication must be treated in accordance with all other provisions of this paragraph.
- 6. The **Commission** may seek additional evidence, if the evidence is included as part of the record and the parties are given due notice and opportunity to respond.
- c. Subpoena Power and Depositions.
 - 1. The **Hearing Authority's Presiding Officer** may issue subpoenas under Section 21-7(d) of the Montgomery County Code, which provides for subpoenas to be issued by the **Commission** or by application of the **Commission** to the Circuit Court for Montgomery County.
 - 2. The **Hearing Authority's Presiding Officer** may compel the attendance of witnesses and require that they produce books, papers, documents, and other materials relevant to any case under consideration.
 - 3. Subpoenas may be served by certified mail, by private process server designated by the **Hearing Authority**, or by anyone who could lawfully serve a subpoena in a judicial proceeding of a civil nature.
 - 4. The provisions of Montgomery County Code, Section 21-7(d) and (e) regarding subpoenas and depositions also apply.
- d. Burden of Going Forward with the Evidence and Burden of Persuasion. The **charging party** has the burden of going forward with the production of evidence, and the burden of persuasion, at the merits **hearing** before the **Hearing**

Authority. This evidence must be competent, material, and relevant to all matters at issue and the relief requested.

1. Evidence. When conducting an evidentiary **hearing** on the merits, the **Hearing Authority** may admit and give appropriate weight to evidence that possesses probative value commonly accepted by reasonable and

prudent persons in the conduct of their affairs, including hearsay evidence that appears to be reliable in nature. It must give effect to the rules of privilege and confidentiality recognized by law or regulation, and it may exclude incompetent, unreliable, irrelevant, or unduly repetitious evidence, or produce evidence at its own request.

2. The **Hearing Authority** may take official notice of commonly cognizable facts, facts within its particular realm of administrative expertise, and documents or matters of public record. Parties must be notified of matter and material so noticed while the record in the case is open, and must be provided an opportunity to contest those facts.

e. Testimony of Witnesses at **Hearing**.

1. All witnesses must testify under oath, and only witnesses having direct knowledge of the facts on which the charges are based will be heard. A witness under oath who intentionally falsifies material, or who willfully and falsely testifies in a **hearing**, is subject to the penalties of perjury under State law.
2. Every party has the right of reasonable cross-examination of witnesses who testify, and has the right, on request, to submit rebuttal evidence. Repetitious questions and examination on irrelevant matters will not be permitted. Cross-examination will be subject to reasonable regulation by the **Hearing Authority**, which is authorized to require the designation of specific persons to conduct cross-examination on behalf of other individuals.

- f. Right to Counsel. In any case governed by these procedures, the parties may represent themselves, or may be represented by legal counsel admitted to practice in the State of Maryland, or may be represented by a designee of their

choosing other than legal counsel. The appearance of counsel or designated representative will be entered, and the party must expeditiously notify the **Commission** in writing after retaining counsel or designating a representative. A party must notify all other parties of record simultaneously with notification to the **Commission**.

- g. Powers of the **Hearing Authority**. In addition to any other power granted by these Procedures, the **Hearing Authority** is empowered:
1. to administer oaths and affirmations;
 2. to grant or deny requests for subpoenas or issue subpoenas on its own initiative, and to call independent witnesses or seek additional evidence to be made part of the record as justice may require;
 3. to rule on petitions to quash subpoenas;
 4. to rule upon motions, offers of proof, and receive relevant and probative evidence; to exclude incompetent, irrelevant, immaterial or repetitious evidence; and to give effect to the rules of privilege or confidentiality recognized by law or regulation;
 5. to regulate the course of a **hearing** and to allow the record in a **hearing** to remain open;
 6. to hold conferences for simplification of the issues;
 7. to dispose of procedural requests or similar matters, including motions for continuance; to amend a pre-hearing statement; and to order **hearings** reopened, consolidated, or to grant rehearing;
 8. to call, examine, and cross-examine witnesses, and to obtain and introduce into the record documentary or other evidence;
 9. to request the parties at any time during the pendency of a matter, including during a **hearing**, to state their respective positions concerning any issue in the case or theory in its support;

10. to take any other action authorized by these Procedures or necessary to a fair disposition of the case;
 11. to accept evidence by stipulation of facts, which may be introduced at any time prior to the decision of the **Hearing Authority**;
 12. to schedule, recess, suspend, or continue **hearings** to a time and date certain, with notification to all parties;
 13. on its own motion, and at the request of an affected party, to order witnesses other than a party to be excluded from the **hearing** room until called to testify.
 14. (Only the **Commission**) to order that statements of witnesses who are beyond the **Commission's** jurisdiction, or who for sufficient reason are unavailable to testify, be taken by written interrogatories answered under oath, or deposition (including telephone depositions) made under oath. The original of any of these interrogatories, their answers, or deposition transcripts, must be filed in the case file of the proceedings. The terms "interrogatories" and "depositions" shall, unless otherwise ordered by the **Commission**, have the same meanings and follow the same procedures as set forth in the Maryland Rules of Civil Procedures, as amended from time to time.
 15. (Only the **Commission**) to rule on the request for witness reimbursement of expenses actually incurred because of that witness's required presence at a **hearing**; or, if the witness is a County employee, adopt rules for extending appropriate leave to the witness.
 16. (Only the **Commission**) upon motion, permit additional parties with standing to intervene or participate in the proceedings, as justice may require.
- h. **Hearing** Conduct and Procedure.
1. Unless otherwise provided by law:

- A. A quorum of the **Commission** must be present to conduct a **hearing**. A majority of the persons appointed to the **Commission** will constitute a quorum. The quorum requirements do not apply to **hearings** conducted by a **hearing** examiner or **hearing** officer. A ruling of the **Presiding Officer** will stand, unless overruled by a majority vote of the members of the **Hearing Authority** present and participating.
 - B. The **Commission**, in its discretion, may decide to hear a matter *de novo*.
 - C. The members of the **Hearing Authority** will be subject to disqualification for conflict of interest, and suggestions for disqualification of any member may be made on petition of any party, or by any member of the **Hearing Authority**. A ruling on any such disqualification shall be made by a majority of a **Commission** quorum. Conflict of interest matters are also governed by the County Ethics Commission under County Law. In the event of a conflict between a decision by the **Commission** and the Ethics Commission, the decision of the Ethics Commission will take precedence.
 - D. The **Presiding Officer** of the **Commission** (except the Chair for the **Commission**) will be a voting member, and is counted toward establishing a quorum.
- 2. The **Presiding Officer** of the **Hearing Authority** will preside at **hearings** and have full authority at all times to maintain orderly procedure and restrict the **hearing** to relevant and material facts. A ruling of the **Presiding Officer** will stand, unless overruled by a majority vote of the members of the **Hearing Authority**, present and participating.
 - 3. All exhibits accepted will be marked and held in the **hearing** file. Exhibits whose admission is rejected will either be returned to the offering party, or retained in the file with appropriate notations reflecting that the material was rejected as an exhibit.

4. Rulings on motions, petitions, and objections made during the course of a **hearing** will be ruled on as received, or as soon thereafter as is practicable.
5. Where the **Commission** orders an evidentiary **hearing**, subject to Section 5. III. above, the ordinary, but not mandatory, order or procedure for the conduct of the **hearing** and the presentation of evidence is:
 - A. disposition of all outstanding preliminary motions and preliminary matters;
 - B. opening statement of parties;
 - C. presentation of factual case of the appellant; cross-examination of the appellant's witnesses;
 - D. presentation of factual case of the **responding party**; cross-examination of the **responding party's** witnesses;
 - E. rebuttal evidence of the appellant; cross-examination of the appellant's witnesses;
 - F. surrebuttal evidence of the **responding party**; cross-examination of the **responding party's** witnesses; and
 - G. closing arguments.
- i. Sanctions. The **Commission** may impose sanctions against parties and witnesses for failure to abide by the provisions of these Procedures, or for causing unexcused delays or obstructions to the pre-hearing and **hearing** process. These sanctions may include, but are not limited to, suspension or continuance of scheduled **hearings**, dismissals of **appeals**, denial of admission of documents and exhibits, and admission of matters as adverse to a defaulting party.
 1. In addition to any of the above sanctions, the **Commission** may assess against any offending party the full cost of verbatim recording and transcription of any **hearing** that was delayed or obstructed by that party.

2. The **Commission** may also assess against the offending party the cost of re-advertisement, or re-notice, if this notification is either required by law or is necessary, in the discretion of the **Commission**, to give adequate notice to interested or affected parties.

IV. Emergency **Hearings**.

- a. If the ordinary processing of any **appeal** may cause injury to any party due to time constraints, the **Commission** may for good cause grant an emergency **hearing** on its own motion, or upon good cause shown by any affected party. When the **Commission** orders an emergency **hearing**, it may suspend or alter any provision of these Procedures necessary to avert that undue injury. However, in those cases, the **Commission** must notify all parties of the

operation of this section and make every reasonable effort to provide substantive due process of law to all parties .

- b. Any motion to “vacate the stay,” as described in Chapter 21-7 of the County Code, may be ruled on by the **Hearing Authority** upon a request from a party with **standing** in that case, with or without a **hearing**.

V. Decisions.

- a. Content. All recommendations and/or decisions of the **Hearing Authority**, except rulings on preliminary matters or on non-dispositive motions or objections, must be in writing. They must be based on the record, and must contain findings of fact, conclusions of law, and an appropriate decision and order. However, any decision stipulated or consented to by the parties need only be reflected by an appropriate written order or consent decree.
- b. Evidence Required. Where an evidentiary hearing is held, all recommendation and/or decisions of the **Hearing Authority** must be based on and supported by a preponderance of the evidence of record.
- c. Voting Requirements. Any decision rendered in conformity with the provisions of these Procedures must have the concurrence of a majority of a quorum of the voting members of the **Hearing Authority**, unless a greater number of votes are required by law.

1. Members of the **Commission** who were absent during a **hearing** may vote on a matter, if they provide written certification that they have read the transcripts and reviewed the evidence of record.
 2. Failure to achieve the necessary affirmative votes will act as a denial of the relief requested by the **charging party** by operation of law. No written opinion in this instance will be required. However, individual members of the **Commission** may file written reasons supporting their respective positions.
- d. Time Requirements for Decisions. All recommendations and/or decisions of the **Hearing Authority** should be rendered within forty-five days after the closing of the record in the case. However, the **Commission**, on its own motion, may
- extend the time for recommendation and/or decision for additional periods, with written notification to all parties.
- e. Notification of Recommendation and/or Decision. The **Commission** will send recommendations and/or decisions of the **Hearing Authority** simultaneously to all parties of record and their counsel.
- f. Rehearing and Reconsideration. A request for rehearing or reconsideration must be filed within ten days after a final decision by the **Hearing Authority**. After that time, a rehearing or reconsideration may be approved only because of fraud, mistake, or irregularity. If a request is timely filed, the **Hearing Authority** may exercise rescissory power and control over its decision.
1. A request for rehearing or reconsideration must be made in writing, and must include the supporting reasons for the request. Copies must be served on all parties of record.
 2. Any decision on a request for rehearing or reconsideration that is not granted within ten days after the request is received will be deemed denied.
 3. Any request for rehearing or reconsideration will stay the time for filing any administrative appeal for judicial review until the request is denied; or if the

request is granted, until such further time as a subsequent decision is rendered.

- 4. A request for reconsideration or rehearing will not stay the operation of any order, unless the **Commission** so states.

- g. Informal Disposition. If appropriate to the nature of the proceedings and the governing laws, and upon approval of the **Commission**, an informal disposition may be made of any contested case or issue by stipulation, agreed settlement, consent order, or default.

- h. Whenever the provisions of these Appeal Procedures conflict with Montgomery County Code Sec. 21-7, the provisions of Sec. 21-7 shall take precedence.

Sec. 6. **Enforcement.** The **Fire Administrator** is the enforcement authority for all policies and regulations of the Montgomery County Fire and Rescue Service.

Sec. 7. **Effective Date.** This regulation is effective on _____.

Attest:

Gordon A. Aoyagi, Chairman	Date
Fire and Rescue Commission	